

# PROBLEM OF LAND ALIENATION AMONG THE TRIBALS

By

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**EDITING**

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After Independence, the process is continuously going on to look into matters related to social living of Schedule Caste and Schedule Tribes and their problems. The in-depth studies have been undertaken about various castes of Schedule Tribes, that is tribals. The tribals and their economy have close relations with water, land and forest rights. There have been several problems in these matters. As regards land, the holding of land with tribal land holders is decreasing. There are two main reasons for this :

- (1) The land is divided into small holdings due to division of land for successions, and
- (2) The holding becomes smaller when the piece of land is sold to others or is transferred in somebody's name for any other reason.

The Government has tried to check this tendency of land holding becoming smaller in the tribal's hand in tribal area by introducing section 73 AA, prohibiting the transfer of land in 1981. Never the less, there have been several such incidents of transfer of land by one way or other. How does this happen ? What are the circumstances leading to this ? Who purchases this land ? These were some of the issues which were to be addressed to in the study to be undertaken as per suggestion from the Advisory Committee of Tribal Research and Training Institute. The Institute considered this suggestion to be well-directed and very useful and essential in present context and hence the study was undertaken. I therefore express my thanks to the Advisory Committee for their valuable suggestion to take up such a study.

I express my heartfelt thanks to Shri Chandrakant Upadhyaya, Director, Tribal Research and Training Institute for entrusting me to undertake this study and for providing me great encouragement and guidance throughout the course of this Research Study.

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**Arunbhai B. Patel**

## **CHAPTER I**

### **BACKGROUND**

#### **INTRODUCTORY :**

The tribals in Gujarat State are mainly spreaded in 44 talukas of 11 districts. In North Sabarkantha and Banaskantha, in Central area, Dahod, Godhra, Vadodara, Bharuch and Narmada and in South, Surat, Navsari, Valsad and Dangs are these districts. Besides these districts, there is a tribal population in other districts also in small or big number. These include, forest area of Junagadh, districts of Kutch and Jamnagar and also Nalsarovar area. In the State of Gujarat, totally 28 tribes are included in schedule tribes. Out of these 28 tribes, 14 tribes are having larger population. These include Dungari Garasia and Bhil Garasia of North; Bhil, Patelia, Dhanka, Nayka and Rathwa of Central area; and Dubla-Halpati, Gamit, Konkana, Dhodia, Chaudhari, Varli, Kunbi and Kotwalia in South strip.

The tribal economy is considered as under developed economy. As in India, so in Gujarat, the economy of tribals is a mixed economy. Therefore, the tribals maintain themselves by following more than one vocation e.g. Those who are engaged in farming, also follow animal farming and poultry also. Some of them also need to migrate for agriculture labour or other labour work.

Classification of Tribals following Agriculture and Agriculture Labour (in % age)

<b>Year</b>	<b>Agriculture</b>	<b>Agriculture labour</b>	<b>Other vocation</b>
1961	59.18	31.09	9.73
1971	48.34	42.33	9.33
1981	45.94	40.10	13.96
1991	45.70	39.19	15.11

These figures since 1961 indicate that the percentage of tribals dependent on agriculture have been continuously declining, whereas there

has been gradual increase in both agriculture labour and other labour. It transpires that agriculture cannot offer them livelihood throughout the year. The land is divided into small holdings with increasing population, resulting into non-availability of adequate land for farming. Whichever land is available is also stoney, slopey, surrounded by forests or one without fertility. Such land cannot become economically viable. Land is not only means of livelihood. It is also a means of spiritual identification with ancestors. The holding of land provides them self-reliance, honesty; truthfulness based perspective of life. Once they lose their land, they lose their independence and they are placed in a position of destitution and slavery.

### **EXPLOITATION AND SNATCHING OF LAND :**

The question of economic well being of tribals traces back to British rule. Prior to that, during Maratha and Muslim rule, they were living solitary life in jungles and hills. During British rule, they were brought under political control and controls of outside administrators. The roads and other means of communication in tribal area facilitated the entry of non-tribals into tribal areas and consequently the non-tribal money landers, merchants, forest-contractors and government officials started exploiting tribals. Their land was snatched away from their ownership. Out of zamindari and Raiatwari systems in British India, the Raiatwali system was applied to Gujarat and the tiller of land became owner of the land; but in the system, there was no differentiation between land owners who onward the land farm their ancestors and those who were farming the land themselves. Thus, the land disappeared from the hands of original owners. On the other hand, there was a demand for land for cultivation. This resulted in increase in 'South' rates and the tribals became debtors. The tribals hypothecated their land with money landers and merchants, and gradually lost their land. This process of land alienation in tribal areas, the non-tribals were attracted to settle in tribal areas.

The new taxation policy known as “Madras system” was introduced by Britishers in the beginning of 20th century. Prior to introduction of this system, the tribals were allowed to prepare Wine and Tadi. This system brought a control on Tribals to manufacture wine and the non-tribal merchants were given license for sale of wine. This created a way for exploitation. According to Mr. Desai, “The tribals lost their right to manufacture wine & tadi, but they continued to consume these.” Besides, they had no money and they were not accustomed to money-economy. They consumed wine against their labour. The exploitation started through introduction of money-economy.

### **THE RIGHT OF LAND-HOLDING IN GUJARAT AND LEGAL FACILITIES:**

Till 1960, Gujarat was a part of bi-lingual Bombay State. Even after the formation of State of Gujarat, the Bombay Land Revenue Act, 1879 was in operation with some modifications. As per the annual report submitted by the commissioner of Schedule Castes and Schedule Tribes, for the year 1997, some stay orders were passed against transfer of land of tribals residing in tribal areas vide 1879 Act wherein no such transfers cannot be effected without the permission of competent authority. These stay orders were not settled till 1997. The Gujarat State Govt. has expanded the scope of the Bombay Land Revenue Act 1879, by adding the section 73-A, 73-AA, 73-AB, 73AC and 73 AD. These new provisions have provided additional powers to Collectors and it has been provided to disapprove the transfer of lands of tribals in the name of non-tribals. This amendment in Bombay Land Revenue Act, 1879 has come into force since 1-2-1981. Now the agriculture land owned by a tribal cannot be transferred to any body except the permission of Collector.

For land holding right of unauthorized transfer of land, the staff of concerned five departments have been appointed under the Dy. Collector. They are empowered to identify the cases of unauthorized transfer of land and to re-transfer the land in the name of original tribal land holder. There has

been such provisions in the Bombay Land Revenue Act 1879 and subsequent amendments. Dispute these legal provisions, the non-tribals find some escapes from legal grips.

The Gujarat Government has made an important amendment since 1-2-1981, according to which no land owned by the tribals residing in tribal area cannot be transferred without sanction by the Collector. These reforms are contained in BLRC section 73 AA, 73 AB, 73 AC and 73 AD.

### **AMENDMENTS IN BLRC 1879 AND GUJARAT LAND REVENUE CODE, 1972.**

Gujarat Government proposed new changes in BLRC in 1981. New sections added are as under:

1. 73-A Stay on powers to transfer
2. 73-AA Ban on transfer of land from Tribals to tribals and from Tribals to non-tribals.
3. 73-AB Ban on hypothecation of land to Government or other institutions.
4. 73-AC No legal/constitutional support can be availed through Civil Court in such matters.
5. 73-AD Ban on Registration of documents.

### **STEPS TAKEN BY GOVERNMENT TO PREVENT ALIENATION OF LAND OF TRIBALS.**

The land of tribals is snatched away unauthoritatively. The Dy.Collectors in the concerned districts are empowered to identify such cases. They are also empowered to re-allot the land to original tribal holder from one who has held it from tribal. The number of cases in this regard upto March 2001 are as under:

<b>Sr. No.</b>	<b>Details</b>	<b>Total Cases (No.)</b>	<b>Total Land (in care)</b>
1.	Total cases identified	47,926	1,40,324.37
2.	Cases disposed off	46,621	1,36,879.14
	(a) In favour of tribals	40,281	1,20,194.19
	(b) Against tribals	809	3,849.05
3.	No.of cases in which tribals are re-alloted the land	39,503	1,18,259.26
4.	Cases rejected	3,907	9,791.20
5.	Cases pending for disposal as March 2001	1,171	3,597.00

It is noteworthy that area-wise Vigilance Groups are formed to identify the cases of transfer of land or snatching it away from them. These vigilance groups are active & they have identified several such incidents. These vigilance groups visit the villages of tribal area, meet the people, scrutinize the necessary documents and take appropriate action based on their own findings. With reference to re-allotment of land to tribals, 76 per cent of land is re-allotted to tribals.

The content of the circular issued to provide guidance in respect of cases for giving sanction to sale the land which falls under Land Revenue Code Section no. 73 AA after obtaining pre-sanction a circular no. AJD/2198/305/J-1 dated 22-12-98, issued by Revenue Dept. Government of Gujarat for and on behalf of Governor of Gujarat is as under :

With reference to the subject mentioned above, I am directed to inform that Gujarat Land Revenue Code Section 73AA has been amended vide Gujarat Act No.5 of 1998, and the powers under this section are entrusted to District Panchayats only in respect of tribal areas.



As per amendment in Land Revenue Code, the LRC Rule 57(L) also needs to be amended. This matter is in process in consultation with the Dept. of Constitutional and Parliamentary Matters, and it is likely to take some time. It is also not possible to proceed ahead as per amended provision of act, unless the corresponding rule is also amended. Therefore, all the matters of disposal of cases of transfer of land under the control of section 73 AA of Land Revenue Code have come to a standstill position. The Government have carefully considered the matter related to disposal of such cases and have decided as under;

“The matter regarding amendment in sub-rule 57(4) of Land Revenue Rules is in process. Pending this, the existing provisions in Rules for disposal of proposals of obtaining pre-sanction as per Section 73AA of the Act are operative. There fore, action may be taken accordingly.”

As per this decision, all the pending proposals of transfer of land under the control of Section 73AA of the Act within the purview of Collector, were to be disposed of by the Collectors immediately, and for those proposals where it was necessary to obtain Government orders were to be forwarded immediately for consideration by the Government. All the Collectors are informed to convey this to all concerned so that the appropriate actions are taken forthwith.

Likewise a Government circular was issued by the order of and in name of Governor of Gujarat for transfer of land held by tribals obtained either by succession or obtained by one's own means, in respect of transfer of such land under control of Land Revenue Code Section 73AA. The circular was issued by Revenue Dept. vide no. ADJ-3399/1660-J dated 5-4-2000. The content is as under:

In the Land Revenue Rules, a new rule no.57 L (4) has been added after Rule No.57 L (3) vide Government Notification No.DHM/99/8/M/ADJ/92-

CM/3-J-1 dt.18-3-99 of the Revenue Department. According to the New Rule, if the tribal holder of the land has purchased the land from a non-tribal, from his own financial sources, then the powers to transfer such land vest in Collector, or in case of Schedule Area, in District Panchayats. However, this provision does not apply to transfers granted to tribal holder. It was necessary to clarify whether this provision also applies to the tribal holder who has acquired this land in succession from his ancestors. The Government, after careful consideration clarified that if the ancestors have acquired this land from his financial sources by way of purchase from a non-tribal, and if the same land has been flow in order, to the tribal by way of succession, the tribal will be considered as holder of the land as if he has held it from his own financial source, because this land was not given to him by Government. Therefore, if this land is required to transferred it can be transfered after obtaining pre-sanction from the competent authority as per provision of new rule added vide notification dated 18-3-1999. All the Collectors / all District Panchayats are informed to take appropriate action after proper and careful scrutiny in such cases. These orders are issued in consultation with Tribal Development Department.

**REASONS FOR NOT GIVING SANCTION UNDER THE BOMBAY LAND REVENUE CODE, 1879 RULE 73 AA & RULE 57 L:**

- (1) If the purchase is made by a non-farmer.
- (2) If the seller is unwilling to sell the land.
- (3) If the sell price is less, hence the tribal is being exploited.
- (4) The transfer of land belongs to different pattern, having different jurisdiction of power. The sq. area is also different.
- (5) By selling of land, the applicant becomes a non-farmer.
- (6) The Certificate of registration is not produced from the District Registrar for proposed residential colony.
- (7) The proposed land to be sold is in pieces, and one who wants to buy it, doesn't have corresponding land in periphery.

- (8) The applicant has failed to produce required information/proofs etc. and doesn't take interest for the sanction of his application.
- (9) The tribal himself wants to construct a residential building on his own land, therefore, he can request for N.A. without disturbing the control under 73 AA.
- (10) The applicant is constantly absent.
- (11) The land is hypothecated to Bank/Co-op. Soc.
- (12) The Power of Attorney are made in favour of purchaser of land only. The transaction, therefore, seems doubtful.
- (13) Titles of land are not clear.
- (14) The co-owner of land is minor.
- (15) The land is under acquisition.
- (16) There is no provision for giving sanction for hypothecation of land for the purpose of getting loan from the Housing Finance Board.
- (17) The reasons for sale of land not being in consistence with the Rule 57 (L)
- (18) The land is already transferred prior to obtaining sanction.
- (19) The land being transferred by oral contract.
- (20) There is no provision to accord sanction for hypothecation of land to Gujarat Rural Housing Finance Co-op. for the land under control of 73 AA.
- (21) There is a breach of condition of land sanctioned as N.A. by District Development Officer.
- (22) As per legal provision, the tribal holder of land cannot transfer his agriculture land to non-tribal person.
- (23) For want of permission in the Gujarat Land Revenue Rules (8<sup>th</sup> amendment) 1999.
- (24) For want of permission in the Gujarat Land Revenue Rule No. 57(L) and sub-rules.
- (25) The matter to give permission comes within the purview of District Panchayat.

## **OBJECTIVES OF THE STUDY:**

The objective was to examine that, after passing of section 73 AA of the Act w.e.f. 1<sup>st</sup> February 1981, how much of the land from the tribals has been transferred to non-tribals; and how? It was also intended to examine if there were cases of mutual transfers of land. Thus it was intended to examine and find out the cases of transfer, how the land is being transferred despite legal provision, which are the factors and circumstances responsible for this etc. It was also hoped to suggest the ways to combat this problem, based on the findings of this research study.

## **METHOD OF STUDY:**

Three efforts were made by way of postal correspondence with the District Collectors and District Development Officers to get the information about transfer of land. Of these, we could collect the information in respect of Valsad District only. In the district of Bharuch, we could get letters from District level, but since the talukas did not forward their information at district level, we could not get any information from there. Thus, we couldn't get information from other districts also, and therefore we tried to collect some information from Danta and Amirgadh talukas, through correspondence with Taluka Mamlatdars. No other Taluka has also sent their information from their offices. In this study, we have identified cases from Pardi and Umargam Talukas of Valsad district and those of Amirgadh and Danta talukas of Banaskantha District. The rationale behind selection of these talukas is as under:

In the villages around Vapi of Pardi taluka, there is great demand of land due to industrial progress; and therefore there are likely to be more cases of transfer of land.

Likewise, Ambaji is a religious place and there has been a flourishing marble industry around. Therefore, in Danta taluka, it is probable that many tribals might have lost their land there.

Schedule was used as instrument of study. The information regarding holding of land from each holders of land was collected from a village through schedule. Besides, the facts of village record maintained at village level in Form 6, known as "Hakkapatrak" were used. Besides schedule, the information regarding transfer of land, the circumstances and reasons thereof was collected from village leaders and local workers.

The various kinds of cases, which have come across in the course of our study, have been dealt with in net chapters in the form of individual studies.

## **CHAPTER – 2**

### **TRIBAL LAND HOLDERS OF BANASKANTHA DISTRICT CASE STUDIES**

An effort is made through different case studies to indicate how the ownership of land changes hand from tribals to non-tribals by way of transfer or otherwise in the Danta and Amirgadh talukas of Banaskantha District.

A Vilalge of Danta Taluka – Chikhla

Tribal's Name : Gamar Totabhai Sinabhai

Tribe : Dungari Garasia

Age: 50 Years.

There are 6 members in the family – 4 male, 2 female

Both females are illiterate; whereas among males, 2 have studied upto primary education and one has reached upto secondary level and one is illiterate. He owns a Kutcha house in slope of a hill, with 2 rooms. The walls are made from mud and roof with indigenous tiles. The approximate cost is Rs. 20,000/-. It is on his own land bearing survey no.8/2, area 2.24 acres of land. He owns another plot of land bearing survey no.25 and area of 2.34 acres. This is with new conditions. Thus, total area of land is 5.18 acres. As per government record, survey no. 8/2 held 2.24 acres of land i.e. 12,849 sq.mts. Out of this, 7017 sq.mts. of land was sanctioned for sale to Ms. Riddhi Marbles Pvt. Ltd. (Director – Ratilal Maganlal Modi) at the cost of Rs. 2,45,559, as per Govt. entry dated 24-8-95. However, the land owner Shri Totabhai has received Rs. 50000/- only against this sale of land. He has received no further amount. The details came out as under:

The purchaser of land Shri Modi (of M/s. Riddhi Marbles Pvt. Ltd) stays at Ahmedabad in Gokulnagar Society, Ahmedabad. It was reported that he took Shri Totabhai to Ahmedabad on 15-3-1996. He got his S/B account opened in State Bank of India with initial deposit of Rs. 300/- Rs. 2,45,556/- was deposited in this account on that day and the same amount was withdrawn from the bank account on the same day. Shri Totabhai is illiterate.

He can make only thumb impression. He cannot make his signature. He reported that on that day, he was made to stand in the cabin with a pen in his hand, as if he was making a signature. Actually, he is illiterate and cannot make his signature. He doesn't know that there was a transaction of such a big amount in the bank on that day. He says that arrangements were made for his travel to Ahmedabad from his village and back. He has got his Bank Pass Book even to-day. It transpires that an evidence is fabricated that the cost of land is paid to him as per amount indicated in the document. However, fact can be digged out if the bank account is investigated by inquiring as to now this account was operated and with whose signature. But this could not be done, because it was beyond the scope of this study.

The remaining 5832 sq.mts. Of land in survey no.8/2 is also shown to have been sold without possession for which the amount of RS. 3,50,000 was shown in the document, no amount is received by him. According to him, this total piece of land of 2.24 acres was to be sold against total amount of Rs.6 lakhs, but he has got RS. 50,000/- only till day. Against this, he alongwith his family members has constructed the sub-way joining the main road to this plot with great amount of labour. Thus, virtually he did not get any thing according to him. Half of the plot in this survey number is now shown in the name of M/s. Riddhi Marbles. The owner doesn't come to the place; because he is asked to pay the amount due. He tries to sale it of to some other party; but Totabhai refuses to give possession to anybody; because he did not get the value of his land. The case is complicated one. Some other documents are also said to have been fabricated; including one in which it is shown that Totabhai has purchased the land of 1.27 acres from Shri Dhulabhai Hadabhai Taral of the same village on 22-5-1995. In fact, the land is in the possession of the original owner only. Only Mr. Modi of Riddhi Marbles knows why such documents were required to be created.

Shri Dungaia Devabhai Balabhai of village Chikhla died at the age of 105 years. He is succeded by his son Nanabhai Devabhai of 50 years of age.

He is educated upto Std. IV. There are 6 male and 3 females in the family. One child in the family is in the Primary School and another one is in the middle school. Rest are illiterate. The building is kutcha with two rooms, made of mud and indigenous tiles on the roof. The estimated cost is RS. 30,000/-. There is also a small stable for animals in the front. The total land is 5.10 acres. The did have one more building of two rooms with a well on 3.08 acres of land in Survey no. 13. This was hypothecated by Mohanlal Shrinivas Sharma. It is shown in the document that RS. 2,000/- were taken against this property, whereas the actual amount received by him was RS. 700/-. The case is an old one. They had gone to return the amount with the grand father; but Mr. Sharma abused them and refused to return the land. In 1999, the family members of Nanabhai Dungaisa went to the land to take its possession. At that time, they tried to sow wheat, mustered and grams, and did reap the wheat; but gram and mustered were taken away by Sharma. There was a Panch Case registered in this regard; but the persons who took away the land are big shots owning Hema Marbles, Mahendra Marbles and Mice Marbles. It is not easy to get the land back from them. The land had also water well, and with its loss, the agriculture has suffered a great deal. No vegetable crops could be taken for want of water.

Shri Manchhabhai Nanlabhai Taiwar of village Panchha, Tal. Danta is illiterate. All 7 members in the family are illiterate. They depend on agriculture and labour. His Uncle Dharmabhai Nanabhai Vansia had no issue; and therefore he took his nephew in adoption since childhood. He is officially adopted by a legal document dated 11-6-2001 and is also have right to inherit. The building is Kutcha, with mud walls and indigenous tiles on the roof. They donot breed cattle. He has acquired land in capacity of adopted son. He does have 7.00 acres of land on his name. However, 3 acres of land alongwith a puccas well was taken away by one Agrawal Radheshyam Guljarilal against installment and he tills this land also. Thus the physical possession of land is with Agarwals. This is not registered in his name, but he refuses to give it back.



Out of this 7 acres of land, another party has also taken away 1.20 acres of land since last five years. This party also happens to be a Talati. His name is Pravinsinh Sisodia and he works as Talati in Kumbharia Village Panchayat. He has paid RS. 65,000/- against this land; but has asked them to report that RS. 3 lakhs are paid. This is an example to indicate how the poor, aged and illiterate people are dealt with. It is apprehended that these two parties will somehow get the land in their name, and will be owner of the land against such a small amount paid. Though at present the land is in their own name; but the actual possession is in somebody else's name, and they are not able to take any crop from it. Now only a small piece of land is left, which is insufficient for maintaining of the family and it is likely that they will have to bid good bye to it in future.

Shri Dhanabhai Dolabhai Vansia is 50 years old and is illiterate. He does agriculture work and agriculture labour. There are 11 members in the family. Only 2 children have reached upto primary level of education. Rest is illiterate. The house is kutcha, with one room, mud walls and manglori tiles on the roof. The estimated cost is RS. 28,000/-. There is a small cattleshed in the front. They maintain 15 goats. They have 3.10 acres of land. Of this, they have sold 1.26 acres of land to Pravinbhai Manilal Amin at Rs. 1,50,000/- Rs. 1 lakh is received against this; but RS. 50,000 are outstanding, according to the respondent. The actual cost of this land is indicated to be RS. 9,68,165 in Danta Mamlatdar Office record registration entry no. 445 DT. 22-5-2001; whereas the respondent mentions the cost at RS. 1,50,000/-. Thus, there is a great disparity between actual cost receivable and actual cost shown in documents. The difference is 5 times approximately. The land is transferred three years back; but the document is prepared only 3 months back. The land was on road side and would fetch good cost. But one of his sons involved himself in a problem and land was sold off to meet the cost of medicine.

Shri Virabhai Holabhai Barod is Dungari Garasia of village Panchha. He is aged 62. He is illiterate. He stays alone. His son stays separately. The building is kutcha, with 2 rooms, wind walls and indigenous tiles on roof. The cost is approximately Rs. 25,000/-. The land is 1.24 acres and is tilled by his nephew. The respondent also states that 0.33 acre of land on survey number 70/1 is sold to Kusumben Pravinbhai Amin for Rs. 1,31,000/-. However, in Danta Mamlatdar office record, the cost of the land is shown at Rs. 4,50,713. What could be the reason for such a vast disparity of nearly 5 times? The actual sale was done before 4 years, whereas the document is dated August 2001. Out of this cost of RS. 1,31,000/- also, there has been a breach of trust worth RS. 15,000/- The land was sold to perform the after-death "Barma" of his wife.

Dhulabhai Somabhai Vansia of village Panchha is aged 35 and illiterate. He maintains himself with agriculture and agriculture labour. There are 8 members in the family. One male and one female have reached upto middle school, and rest are illiterate. The building is kutcha, muddy, with manglory tiles. He has 5.36 acres of land. If it is divided into two, he gets half share from it. But, two acres of land bearing survey no.3 was hypothecated to one Brahmin Rohitbhai of Mehsana against Rs. 12,000/- when his father was alive. This is used for factory. A compound wall is made and is actually in his possession. Thus, 2 acres of land has been virtually snatched away for small amount, though it is on their name without possession. It is fact that the land is now gone, and one doesn't know whether it will be ever returned to him. The remaining piece of land is tilled by him.

Husabhai Bhanabhai Vasia of village Panchha is aged 51 yr. He is illiterate and belongs to Dungari Garasia tribe. They maintain by agriculture and animal husbandry. There are 8 persons in the family (5 m & 3 F). All are illiterate. The house is kutcha, made of mud and having indigenous tiles on roof. They had 5.31 acres of land; but at present they have only 1.31 acres of land which is tilled by them. The remaining 4 acres of land was hypothecated

for RS. 1,400 only by the owner. He got totally RS. 6,000/- through several installments. The land is also transferred in the names of Babubhai Kashinath Sharma and Haribhai Kashinath Sharma when the old man was alive. They till the land through partnership. The water well alongwith the land has gone and this resulted in great financial loss and income has come down and the family has to depend on labour.

Kalabhai Kapurabhai Kharadi of village Jetvas, Tal. Danta belongs to Dungari Garasia tribe. He is illiterate. He does agriculture work. The family has 9 members, of which only one child attends a primary school. All others are illiterate. House is a pucca one. He took loan worth Rs. 12,000/- for construction of a house. It is with stone walls with manglory tiles on the roof. The value of the house is estimated worth Rs. 35,000/-. He has 8.06 acres of land, which has four equal shares, each one getting nearly 2 acres of land. From his own share of about 2.02 acres, half of he portion 1.01 acre is sold to Pratapbhai Lallubhai Thakur of Hindustan Marbles. Initially the land was hypothecated for Rs. 12,000/-. After seven years he got Rs. 60,000/- and last year he got Rs. 5,000/- for 5 Mango-trees and Rs. 40,000/- against land. Thus, totally he got Rs.1, 17,000/- whereas the document on Govt. record shows the price of Rs. 7,49,749/-. Thus there has been considerable difference of price between one shown in the document, and actual price paid to respondent. There could be several reasons. The factory was built on the land for last 5 years and now it is functioning for last 2 years. Surpassingly, the construction is made on the land which is purchased, whereas the remaining half patron has been used to keep the stones in unauthorized way. This half portion of land is used by them very cleverly, depriving the original owner of his rightful ownership. It is likely that this unauthorized use will sooner or later will result in virtual ownership and the poor owner will be left without his own land.

Hanjabhai Bhikhabhai Kharadi of village Jetwas is 46 yrs. Old. He is illiterate and does agriculture & animal husbandry work. There are five members in the family, of which only one child attends Balwadi. All other

members are illiterate. The house is Kutcha, made from mud and with a roof of indigenous tiles. There is a separate arrangement for cattle. He had 6.17 acres of land for agriculture. Of this, 1.08 acre of land from survey no. 158/2 was hypothecated to Joshi Gagnaben Chhaganlal for Rs. 3,500/-. However, on this land, the official ownership on Govt. record is in the name of Gagnaben. There is a case going on for last 3 years. There is one letter received from Mamlatdar Office Danta, dated (blank) December 2001, asking the party to remain present on so and so date. The date has been over written. Failing to remain present on that date, the case would be disposed off unilaterally. It was also mentioned in the letter that you fail to remain present on fixed dates. Besides, the Regd. A.D. envelope was returned undelivered and therefore it was suggested that the notice may be served. Shri Kharadi however mentioned that the post is never received in time, and sometimes this mal practice of non-delivery of post is practised with joint understanding between the party and the postman. Thus sometimes, it is not possible to report for case on fixed date. He apprehended that his case would be disposed off in his absence. He agreed that his illiteracy will harm him as against education of the other party.

Kharadi Narsabhai Virabhai of vil. Jetwas is 55 yrs. Old. He is Dungari Garasia tribe. He is illiterate. Only two children in the family get primary education; and rest four are illiterate. The house is worth Rs. 25,000/-. It is kutcha, with 2 rooms, made from mud and with indigenous tiles on the roof. There was a separate cattle shed also. He owned 2 acres of land. Before 15 years, his 0.32-acre of land was hypothecated to Joshi Shankarlal Palsaram for Rs. 3,000/- only; and it is in their possession only. On 5-11-97 Narsabhai went to this piece of land for agriculture activity but Shri Joshi filed a chapter case against him and was arrested by Police. He had to produce security to get free from it. Even getting security is not easy because in case of similar other chapter cases, the security is arrested. Narsabhai went with money to get his land free from Mr. Joshi, but Mr. Joshi is not interested in money. He is

interested in land only. Many a times the landholders are insulted, offended or assaulted. Nobody helps poor, not even Police.

Lakhabhai Dhulabhai Parmar of Jetwas village is now dead. His son has supplied with the information. Thawarabhai is 49 yrs. He is illiterate. There are 12 members in the family of which only 2 children attend primary school. Seven Male & 3 Female are illiterate. The house is kutcha, with 2 rooms, muddy walls and having a mixed roof of both indigenous and Manglory tiles. Its value is about Rs. 30,000/-. There is a cattle shed to keep the animals. He farms his 3.02 acres of land, but his 1.02 acres of land is wrongly shown in the name of Shri Kalabhai Nathabhai Parmar (Non-tribal) since 20-7-1984. In old record, it is in his own name. The case is going on in Taluka Mamlatdar Office since 1997. Dates after dates are given; but the land is not shown in his name. The piece of land is however transferred him physically, but the record is not changed. Thus, his own land is not shown in his name.

Manabhai Kanabhai Kharadi is an old man of 70 yrs. He belongs to Jetwas village. He is illiterate and belongs to Dungari Garasia tribe. There are 3 males and 5 females in the family of which only one girl attends primary education. The house is a kutcha one, with one room, with muddy walls and having indigenous tiles on the roof. He has 4 acres of land. Another piece of 2.02 acres of land along with Govt. Step well was hypothecated to Girdharlal Vardhaji Joshi for Rs. 3,000 since 1973. Shri Joshi cultivates this land (0.13 acres in survey no.177 and 1.29 acres in survey no. 178/1). The land is shown in their name in Govt. record. The respondent had taken possession of this piece and also cultivated it putting an oil engine pump, but Shri Joshi had filed a case, got the respondent arrested and took away the oil engine pump. The respondent had to produce security. The machine pump is yet in police custody. The respondent, through his advocate has filed a suit with Dist. Collector on 29/10/99 to get this piece of land back in his possession. The case is in progress.

Shri Ramabhai Somabhai Kikatar belongs to Koteswar village near Ambaji. He is illiterate. There are 5 members (3 M. 2 F.) in a family all illiterate. He tills the land as well as has a small Galla. The house is kutcha, with mud walls, roof of indigenous tiles. The 2-room house is valued at Rs. 20,000/- approx. He has 4 acres of land of his own, and another piece of 1.24 acres of survey no. 7/1 is near Koteswar Bus Station. This piece of land is encroached by nearby Gallawala, Hotelwala etc. One Radhelal Mohanlal Sharma is continuously trying to catch away this land. The respondent was forced to take a stay order in order to reap crop from his own land (11-2-98) and also had to file a complain to prevent others from entering into his premises. He had also to approach Mamlatdar Office, Danta for clearing encroachment from his land under section 61 of Land Revenue Code as per circular dt. 25-12-01. Thus the land is legally inherited by him, yet the poor fellow has to approach Police, Mamlatdar Office even to enjoy his own legal rights. In addition, Shri Radhelal Mohanlal Sharma has got a hoarding of advertisement of a Mr. Abu party placed on this land and earning about Rs. 500/- p.m. from that party. The reading of the hoarding is as "Sacha Museum in Mount Abu. Do not wrong stay only at the Garden Refreat Mount Abu." This is a sample to indicate how a non-tribal from another state puts a sign board on the land of poor tribal, and makes earning out of it.

Shri Devabhai Nathabhai Garasia belongs to Faria, new Kumbharia of Danta Taluka. He is 75 yrs. All the 8 people' (3 M. 5 F.) are illiterate in the family. He is dependent on agriculture and labour. The house is kutcha, one room, made from mud with manglory tiles on the roof. There is a separate cattle shed. He has 8.22 acres of land; which is in his own possession for last 5 years. A Panchnama is done every year by a circle Inspector. The land was hypothecated to Shankarji Amraji Kumbhar and Shri Cheraji Amraji Kumbhar for Rs. 3,000/- only long back. At present, there is a legal dispute about ownership of this land. The Kumbhars have filed an application to Dy. Collector, Palanpur on 20-2-01. The date was filled at 3-4-2001, but the result

is not known. However, the Govt. records shown Shri Devabhai as an owner. This is an example of struggle by poor people for their own land.

Likewise, some 5 acres of land of Shri Jetabhai Hadkhabhai Dungasia of Village Kumbharia was also taken away by Pyarelal Modi. This land belonged to the brother of his grand father, but now Pyarelal Modi tills this land of course, it is not transferred on his name.

Dhulabhai Hanjabhai Rathod belongs to village Rinchhadi near Ambaji. He is from Dungri Garasia tribe. He is 58 yrs. There are 6 Male and 5 Female in the family of which 2 children (1 M, 1 F). attend primary school. All others are illiterate. He does agriculture work, along with animal husbandry. The house is kutcha, made from mud and with manglory tiles. It has 2 rooms. There is separate arrangement for cattle shed. The approximate cost is Rs. 30,000/-. He is dependent on agriculture. He has good amount of land. He has two land holdings. In holding A/c. no. 46, there is 11 acres of land, where as in holding a/c. no. 29, he has 9.10 acres of land. The land is little away on other side of the village. There was a case going on for holding a/c. no. 46, survey no. 98 in 1990. While he was staying away, the land was handed over to somebody by others. He had to fight a case upto High Court, and had won a case and could get the possession of land for last 10 years; but he was economically ruined in this court case. Besides the another piece of land of A/c. no. 29, measuring 9.10 acres couldnot be attended by him properly due to case matter. This was used as pastures for cattle. Last year, two person.... Databhai Monabhai Gamar of village Kesarpura and Nathabhai Nanabhai made an encroachment on the land. They till the land, and behave like bulleys. They threaten the respondent to kill him. Thus, for one piece of land he had to fight upto High Court level and for another piece of land, he is deprived of his right of ownership. It is difficult to give legal fight for want of financial resources. Even the water well on land has been taken away from him. He is not able to fight. It is row for Government to get him his piece of land back to him. Such pathetic cases also could be seen during our study.

We listen to Babubhai Kishanbhai of Khunia village of Amirgadh taluka. He belongs to Dungari Garasia tribe. He is aged 39. He is illiterate. Beside agriculture, he also does labour work in a tyre repair shop. There is only one child attending Primary School out of 6 members (4 M., 2 F.) in a family. The house is kutcha one with one room. It has mud walls and both indigenous and manglory tiles on the roof. The cost is estimated at Rs. 28,000/-. He owns 3.37 acres of land. It is on his own name with Right to till. The land was divided into 2 pieces due to a pucca road construction in a plot cite. He lost his father before 15 years. At that time he was minor. When the land was divided into two pieces due to construction of pucca road; one piece of 1.20 acre is with him; where as another piece of 2.20 acres of land is taken away by a Muslim Nasruddin Faglujee. He tills the land even to day. Though the land is on his name, when he goes to take possession, he is being threatened, that the remaining piece of land will also be snatched away. Thus the land which was owned and consumed by his father is now depurated from him, because he was a minor, when his father died. Give any name to this episode; fact remains that he has lost his own land. It is necessary that the Government machinery should help such poor, illiterate young tribal to get his land back to him, when the land is wrongly chatted away from him by a non-tribal. As per his version, a water-well on the land has been filled up, and the house on the land was to be vacated through fear. Thus, there is alround loss, to this tribal on account of land issue.

Late Shri Dhanabhai Satrabhai Khokharia of village Khunia had no son when he died. He had 5 daughters. They were married and stayed with inlaws. The story of his problem could be known from his daughter Shardaben Saburabhai Padhiar, of village Khapa. He had 3 acres of land. The neighboring land owner was Nasruddin Fullubhai Shaikh. He took away this land for last 20 years. Even to day it is in his possession.



Babubhai Bherabhai Kher belongs to Khunia village. He is 32 years old. He is illiterate. He is engaged in agri. & Agriculture labour. There are 5 members in the family (3 M, 2 F). All members are illiterate. The bldg. Kutcha, with one room, made from mud with indigenous tiles on the roof. The value is estimated at Rs. 20,000/-. There are two holdings of land. On one holding, there is 8.21 acres of land; which is tilled by self. The land is jointly held by two brothers. In another holding, the land is 2.38 acres. It is known as ancestor's (Dosawali) land. This land is used by Selabhai Koli for last 15 years. This land was ancestor's land, but it has gone from them.

Khimiben Vaktabhai Padhiar is an old widow of 60 years from village Khapa. She is doing agriculture work and also animal husbandry. She holds 3 acres of land in her own possession. Formally she had 7 acres of land. Many years ago one brattier Shaikh Mohmad Amir considered her to be her sister. He maintained good relations with her in the beginning. He asked a piece of land from her under the pretence of goat rearing and sheep rearing. In the mean while, the husband of Khimiben expired 7 years before. Now the Shaikh took over this land. The ledger of the ownership of land was remaining with Khimiben. But the Shaikh made a cheating. The ledger was also useful for bringing manure, seeds etc. Shaikh suggested to the old woman that he would keep this ledger to facilitate bringing of all these things. Thus he took away the ledger in his possession. Thereafter the Shaikh said that her late husband had already gave away this land to him and showed the thumb impression of late old man. Thus very cleverly and shrewdly, Shaikh made breach of trust with the old lady and snatched away the land. It is reported that the same piece of land is sold by him to one tribal farmer Malabhai Tejabhai for one lakh Rs. About 4 years back. The respondent was unhappy that she could not get her land back despite several representations with concerned offices.

Lalabhai Kesabhai Vansia is a dungari Garasia from Dungarpur near Amirgadh. He is illiterate. He is engaged in farming and labour. He has 4 acres of land. There are two divisions in land. Half of the land (2 acres) is in his own

possession; whereas other 2 acres are hypothecated to Punmabhai Rabari for Rs. 10,000/- about 7 years back. The amount was taken in installments, but the land was transferred to him through a private registration document. This is an example of transfer through private document.

### **CHAMPTER – 3**

#### **TRIBAL LAND HOLDERS OF VALSAD DISTRICT (Case Studies)**

We have tried to show how the land changes hand in Pardi and Umargam talukas of Valsad district through indicating some case studies of transfer of land.

The village Balitha of taluka Pardi is located on National High Way near Vapi. Maniben Dhanjibhai Patel, aged 75 is a widow. She is illiterate. She belongs to Dhodiya tribe. She has lost a son. There are only 3 females in a family self, the widow daughter-in-law and a grand daughter. Both daughter-in-law and the grand daughter have studied upto secondary level. The house is pucca, with 3 rooms, brick-walls and metal sheets on roof. Its value is estimated at Rs. 60,000/-. The grand daughter goes for labour work in GIDC and that is how they maintain. They did have land for farming. In survey. 309, there was 7 gunthas of land, which is used for construction of house. There was 1 acre of land in survey no. 162. The irrigation channel passed through that land, and hence only little land is saved, which is hypothecated to 2 parties making a private registration document. The land being situated on National High Way, it is quite in demand, but it has been divided into small pieces and secondly, Section 73 AA wouldn't allow for sale. Therefore it is given then private registration. 10 guntha to Solimbhai Khoja for a garage and 7 guntha to Marian Anand for Hotel. They received Rs. 50,000/- against this land. The land was transferred by private registration because there was no body in the family to earn and it was necessary transfer it to get money. The land is in their own name; but the actual possession is with other parties. Because of private registration, it could not fetch reasonable price of land.

Besatiben Bapudiyabhai Dhodiya – Patel is an illiterate widow of 70 years age. She has a pucca house with 2 rooms, brick walls and metal sheet roof. They have separate arrangement for cattle shed. Two sons have their own houses and they stay separately. Their daughters are merited. Besatiben had got 3 separate houses constructed for 3 daughters and their husbands.

She has also helped them for their vocation. Besatiben is farmer, and has 5 acres of land. While asking about land, she refused to respond. The reason was obvious. She had 1.11 acre of land in survey no. 27 on national high way. This was officially sold to Rambhai Ranwal Dhelat of Maruti Show Room. Quite a good amount was received for this deal. For official transfer, process under Section 73 AA was also necessary, for which some revenue officials also made interrogate money, as usual, had attracted attention of all concerned. Even some quarrels and police case have taken place. Therefore, she avoids talking on these issues both to officials and research workers. She fears that some new thing may crop up from this. Thus adequate information couldn't be collected from her. But it is evident that she got good value of her land, which was otherwise away from their house. They have also purchased equal lot of land in vicinity. She also got houses constructed for three daughters. The family has got a Maruti Van too, used by her son. The small piece of land was given on hire for brick construction; fetching some additional income. We couldn't contact Panchayat Officials despite one-two visits, as Panchayat was found closed. We had requested from through a letter to supply us the information from office record, but that is not supplied to us. Therefore we couldn't collect information about official deal of sale of land and amount received against it.

In village Balitha we have both tribal and non-tribal population, almost equal in number. On both sides of National Highway, there are lands owned by tribals. It was known from tax collector of the Panchayat that there are 11 cases of transfer of land from tribals to non-tribals by way of hire hypothecation or partnership transfer. Such land is usually being written down for hire purchase for 99 years period. No legal/official procedure is followed; and there is no record on official books. Such deals are usually done through the private advocates; because the process of getting sanction from Government is very very complicated and time consuming. After such private transfers, the parties make appropriate construction for their use such as

Hotel, Shop, Garage etc. and taken to use. The 11 such cases reported are as under:

Village Balitha, Tal. Pardi

<b>Sr.No</b>	<b>Name of the Party Whose land is taken Away</b>	<b>Measure of Land</b>	<b>Survey no.</b>	<b>Name of non tribal Purchase the land</b>
1.	Babubhai Bhanubhai Dhodia Patel	0.09	163/1B	Hemant J. Panchal Service Station/Gurage
2.	Maniben Chhaganbhai Dhodia Patel	0.10	162	Samimbhai Khoja- Gurage
3.	Ziniyabhai Harkhabhai Patel etc.	0.07	12/4	Ramchandra G. Patel Krishna Auto Parts
4.	Maniben Chhaganbhai Patel	0.07	162	A.Maniyan- Anand Hotel
5.	Besatiben Bapudiabhai Patel	1.11	27	Rambhai Ranmalbhai Dhelat- Maruti Show room
6.	Ramanbhai Gondiyabhai Patel	0.15	54/1A	Palande
7.	Navinbhai Lalaji Dandiwoad Falia	0.04	N.A.	Navinbhai Chatrabhuj Bhanusali
8.	Kantibhai Moganbhai Patel	0.06	46	Bharwad Nathabhai
9.	Navinbhai Lachhabhai Patel	0.08	46	Bharwad
10.	Vojiaben Vitthalbhai Patel	1.20	305/1A	Masud Mohmadbhai Husainbhai
11.	Nandjibhai Ganubhai Dhodia	2.20	99/1-7	Indravadan Gulabchand Shah

Chala village of Pardi Taluka is on way to Daman and is almost in periphery of Vapi. Shri Jivlabhai Dajibhai Dhodia Patel of this village is 68

years old. There are 6 members in the family (2 F, 4 M.). Two males are educated upto secondary level and 2 males and one female upto primary level. Only one woman is illiterate. Thus, there is a good level of education in this family. The house is pucca with 3 rooms, brick walls and tiles on the floor. The roof is with manglory tiles. The house is a newly constructed. They are farmers and breed cattle. They have 3.35 acres of lands; but they are divided into small- small pieces in totally 18 survey numbers. For getting a road to newly constructed house, they had purchased 15.50 gunthas of land from 2 farmers. Ramanbhai Sukabhai and Bhagubhai Karsanbhai Mayavansi (Sch. Caste) for Rs. 1.08 lakh and got a document of purchase. They, in turn, have sold their 0.25 acres of land to Indo Pvt. Ltd. Co. for a workshop for which they got Rs. 8.75 lakh. This was sold through a document in 1998. After getting it N.A. The reason for sale is a big family. They spent Rs. 4 lakhs on marriage of their sons & daughters and for construction of a new house. They also bought some new land. Thus, the land near Vapi tetches good amount of money; but what is more important is proper use of money.

Madhubhai Vestabhai Patel is Dhedia Patel, aged 65, educated upto std.VII is from Chala village. Earlier he was serving, but at present an agriculturalist. Out of 3 F & 3 M in a family, only one woman is illiterate. One male has reached to secondary level and all rest upto primary level in education. The house is pucca one; with 4 rooms, made of bricks and a terrace. The total holding of land is 1.15 acres in 3 different survey numbers. They got the plots prepared on land after getting it N.A. on survey no. 372/1 and sold the plots. 34 gunthas of land is sold to Kantaben R. Desai for Rs. 3 lakhs. The land was held in somebody else's name, record was manipulated and it was possible that somebody may make a trace pass on the land. So they sold it off. It is likely that for all these reasons they could not get reasonable price of land.

Ratanben Bhulabhai Halpati of Chala village is 68 years old. She is illiterate. She does household work. There are 5 members in the family (2 M &

3 F) one male and one female has reached upto secondary school education level. Others are illiterate. The house is pucca with 2 rooms, bricks walls and roof of manglory tiles. The land owned by her is 1.01 acre. She had sold 0.28 acres of land to Prabhatbhai Naranbhai Koli Patel in 1996 to repay the debt incurred for treatment as well for marriage of the son and construction of a house.

Ratanben Kikubhai Halpati is 65 years old. She is illiterate, and does household work. The house is pucca, with brick walls and mangori tiles roof. She owns about one acre of land. She sold 0.27 acre of land to Prabhatbhai Koli in 1995 for marriages of daughters, construction of a house and to meet household expenses.

Village Dungra, Tal. Pardi is situated near Vapi GIDC. Chhanabhai Jadiabhai Halpati, age 58 years of this village is educated upto std. VI. There are 7 members in the family. 2 male and 2 female have reached upto primary level and 2 male and one female have reached upto secondary level of education. All the members in the family are literate. The house is big one, costing about Rs. 5 lakhs. It has a pucca RCC terrace, big verandah, 3 big halls. They are engaged in agriculture and cattle breeding. The farming is better. They own 9 acres of land. 3.28 acres of land in Karwad village were divided into 25 plots, and keeping 5 plots for self, 20 plots have sold out to non-tribals. Each plot is sold at Rs. 2,000 to 3,000. He wanted money for construction of house, therefore the plots are sold of.

However, now he has realized that he could make 50,000 to 70,000 per plot now. He farms sugar cane, and has 200 mango trees on his farm. He owns a sub pump for irrigation. He owns 2 trucks and deal, in a business. This is an exceptional example of prosperous tribal family. Of course, place position, quality of land, planning, intellect environment and resources also matter.

Ganpatbhai Ramanbhai Halpati of village Dungra is 35 years old and educated upto VII std. There are 10 members in the family. 4 male and 3 females are educated upto primary level and 2 female have reached upto secondary level. Only the mother is illiterate. The house is pucca, brick wall and with manglory tiles on the roof. They own a small shop on Selvas Road. He owns only 4 gunthas of land on which house is constructed; which is in name of the mother. The agriculture land of 5 acres piece is not owned by them. He tills this land for many years on behalf of Rajubhai Bhagubhai Vasi, who is resident of this village but settled in Bombay for years. Half of the product is given to owner and rest half is taken by him. Thus both the brothers earn livelihood on land as well as small shop. In this part of region, there are no hedges around the land and therefore animals waste some times crops. Since the respondent tills the land of Shri Vasi for many many years, legally he can claim ownership in this land; but being honest and god fearing, he will not think of taking away somebody's property.

Ukadbbhai Pislabbhai Dhedia of Dungari Falia, vil. Dungara is 42 years old. There are 4 members (2 M, 2 F) in the family. One male and one female has reached upto primary level. Other two are illiterate. The house is very kutcha made of wooden waste and covered by plastic sheet roof. He is engaged in agriculture and labour. He has 1.15 acres of land. 0.15 acres of land is taken away by Rajubhai Chhaganbbhai Dhedia. Where he has constructed 2 pucca and 1 kutcha houses. The case is going on for last 2 years. The land has been now on his name but the remaining process is going on. It seems the land was in the name of his uncle Vestabbhai Radiyabbhai. He did not have issue. The legal procedure must have been done to get the land free from being taken away by others.

Bhagubhai Chhaganbbhai Halpati belongs to Dungra village. He is 45 yrs old. He is illiterate. He had 2 acres, of land, which was hypothecated to Balubhai Dhodia Patel for getting money for marriage of his sister. At present he works on a farm.



Prabhubhai Sukarbhai Dhodia is 60 years old and illiterate. There are 5 female and 4 male in the family. They are engaged on agriculture and agri. Labour. The house is kutcha, made of wooden waste and covered with plastic sheets. The land is 0.04 acre. He also tills 0.20 acre of land belonging to Sukala Harijan. He pays annually 300 rupees against this. He has officially been given right to till this land, because of his long association with land, as stated by the respondent.

Keshubhai Shaniyabhai Patel of Dungra village is an illiterate man of 62 years old. He jointly with his brother holds 1.20 acre of land. They were also tilling 9.20 acres of land belonging to Ahmedkhan for many years. They gave away 8 acres of land and got only 1.20 acres of land in Ganot. However, officially the whole land is shown in Govt. record in their name.

Ukkadbhai Vestabhai Halpati belongs to Dungra village. He is 52 yrs old, illiterate doing labour work. He got 11 gunthas of land in Ganot of this, he constructed house on 6 gunthas of land. Rest 5 gunthas of land is now removed from his name by Ambubhai Bhikhabhai Desai. Due to cattle ever moving on this, land it cannot be well cultivated.

Manuben Bhikhubhai Nayka belongs to Kachi village. She is illiterate, 42 years old. He does both labour and agriculture. She has 1.00 acre of land, but had to hypothecate 10 gunthas of land to N.J. Desai for Rs. 2,000 some 2 years back. Money was required for after-death ceremonies of her mother as well as for making household expenditure including exp. On wine.

Sitaben Gopalbhai of vill. Dehri, Taluka Umargam is 48 years old. She is illiterate. She stays separately from her father. There was no land with inlaws, so she has purchased land in this village. She stays in a farmhouse of a farm only to look after the farm. Her husband is also a construction work labour. There are 8 members in the family (6 M, 2 F) 1 male and 1 female

have reached upto primary education and 3 male have reached upto middle school level. They have 5.20 acres of land, which was purchased by them from Chimanbhai Vaniya some seven years back for Rs. One lakh. Her father paid the money. In tribal community, usually the daughter doesn't inherit land from father, nor the land is transferred in her name. In that connection, there was a hue and cry about this land in the village and there was a wire fencing done around this land; which was torn away by village people for 11 times. This indicates their level of opposition. Nevertheless, the family looks after chiku and coconut in one farm. The said land is adjoining to this farm only. As many as 22 Bore wells were drilled, but only 2 are having water. They spent nearly one lakh Rs. Only after Bore-wells.

Budhiben Ranchhodbhai Kakadia belongs to Bhilad of Umargam taluka. She is illiterate. She belongs to Varli tribe. There are 7 members (4 M. & 3 F.) in the family. 2 M & 1 F have reached upto primary education level and 1 M and 1 F have reached upto secondary school education level. One Male and One Female are illiterate. The house is kutcha, with 3 rooms, made from waste wood 8 mud but manglory tiles cover the roof. She is a farmer, having 2.29 acres of land of which 1.08 acre of land from a particular survey number is in her possession whereas 1.21 acres of land has been taken away by Ranchhodbhai Jamsabhai Lotda forcibly before 8 years. This land was adjoining to that of Ranchhodbhai and that is how he encroached upon it. The case is filed with the Collector Office, Valsad. This land is in the name of respondent for last two years, and was given to his father against a fruit-farm by one Pardiwala Sheth. Thus we can see that people do make internal transfers of land. Sometimes people find it difficult to pull on, when they have possession on land for only half a portion. They have to result to other labour work to get their land back, or have to seek a job to maintain a family.

Ramanbhai Raviyabhai Dhodia Patel aged 60, belongs to Bhilad. He is educated upto std. IV. There are 7 members of the family of which 3 male and one female have reached upto Primary level and 1 male and 2 female have

reached upto secondary level of education. Only one woman is illiterate. The house is kutchha, with 2 rooms and made from waste-wood and mud walls; with manglori Tiles & metal sheets on the roof. They are engaged in agriculture and cattle rearing. They got 9.04 acres of land in gannet, of which 3.10 acres of land on National Highway was acquired by RTO for which composition at the rate of RS. 1,500/- per acre was paid.

Babubhai Sanjibhai Dhodiya Patel of Bhilad is 46 yr. Old. He is a farmer. He has 6 acres of land, but due to 3 divisions, the holding has been reduced to 2 acres only. GIDC had also acquired 0.34 acres of land.

Ramanbhai Kunvarji Desai and Mohanbhai Kunvarji Desai of Bhilad had taken land from 14 different Varli farmers many years' before, to have their own big fruit farm. They had promised the poor Varli farmers that they will be provided with substitute piece of land, but only few of them got land but the others did not get their due. There are also incidents when they were provided with the land, but the same was snatched away by others. The respondents have expressed their deep concern about such matters. Here is a list of all these 14 Varli farmers and 4 of them have been covered in our case studies.

1. Lallubhai Madhubhai Varli
2. Raghobhai Bhikhabhai Umarsoda
3. Nanubhai Jethabhai Bhawar
4. Devjibhai Lalabhai Baraf/Varli
5. Lakhmabhai Novsabhai
6. Kuhiyabhai Mundarabhai
7. Katiyabhai Litabhai
8. Sunkarbhai Litabhai
9. Merwanbhai Raghubhai
10. Kiklabhai Motiyabhai
11. Sivlabhai Bajabhai
12. Javiyabhai Madhubhai

13. Chhaganbhai Gandabhai
14. Somlabhai Thakariyabhai

Mangalbhai Nanubhai Bhawar belongs to village Bhilad. He is from Varli tribe. He is 45 years old and illiterate. There are 2 male and 2 female in the family all illiterate. The house is kutcha one, made from mud, waste wood sticks etc. On the roof, there are manglori tiles. He does farming and farm labour. He had 2.19 acres of land on totally 6 survey numbers. Of these, 1.30 acres of land on 4 survey numbers had been given to Desai for their big farm. He was promised to provide land in vicinity, but then was told that in such land, he would not be able to take any crop. The land which was given was also taken away by Ranchhodbhai Jamsabhai force fully. This is how he lost his land.

Varli Diwalbhai Raghabhai Umarsada was 44 years old. He is illiterate. There are 4 male and three females in the family. Only one man has reached upto primary education. The house is kutcha, made from waste wooden sticks. He had 3.02 acres of land in 5 survey numbers, Of which 1.20 acres of land was received in Ganot from Kishorbhai Vikajibhai Parsi. He paid the amount against this, by eight installments. This land is now taken by Desai, for their fruit farm.

Lallubhai Modhubhai Varli of Bhilad is 60 years old. He is illiterate. There are 12 members in the family. (5 M., 7 F.). Of these, 2 male and one female has reached upto primary, level of education. All others are illiterate. The house is kutcha, made from waste wooden sticks and roof covered with manglori tiles. The land is 0.14 acre. Years back, he got 7.20 acres of land from Parsi, which was taken by Desai on hire purchase. He was supposed to pay Rs. 400/- as installment; but he failed to pay this regularly; and therefore the land was forfeited.

Information was collected from Manchhubhai who is legal heir of Devjibhai Lalabhai of Bhilad. At present they have 0.08 acre of land. 2.12 acres of land has gone to Desai for their fruit farm. 0.07 acre of land is in possession of Chaitabhai Lakhmabhai Varatha / Varli. It is officially on his name.

## **CHAPTER – 4**

### **CONCLUSIONS AND SUGGESTIONS**

Due to the process of economic development, the traditional rights of tribals on land and forest are gradually disappearing. Whereas on one hand, all the procedures of their cultural life are closely related to land; on the other hand, the tribals are losing their rights on land due to legal loopholes, wrongful in plantation of various acts, and exploitation by merchants and money lenders.

The traditionally believe that they are dependent on land; land provides them security and land provides them means of livelihood. Many tribals donot look at land as only means of livelihood, but as an important part of their life. Thus, the main issues for triabl areas are:

- Ownership of land
- Rights on land
- Consumation of rights on land
- 

This is not merely an economic or political issue. It is basic issue wherein economic, political, social and moral considerations are also to be taken into focus. Fortunately, both the State and Central Government have enacted legislation's to prevent the land being changing hands from tribals to non-tribals. There are two sets of Acts for maintaining rights of tribals on their land in different states:

- (i) The Acts which provides measures to prevent the transfer of land from tribals to non-tribals. And
- (ii) The Acts provide and maintain Rights of triabl on the land.

In the State of Gujarat also, several legislations are enacted from time to time for maintaining rights of tribals on the land. On 1<sup>st</sup> of April, 1957 an act was passed to make the tiller the owner of the land.

The act has resulted in making a number of tribals as owners of the land. But in reality, it has also happened that the land passes away from the hands of the tribals to those of non-tribals. This happens due to some loopholes in the Acts as well as the weaknesses in their implementation.

In any part of Gujarat State, where the Bombay Govt. Act and Acts regarding Agriculture are operative, no land for agriculture can be transferred in the name of non-farmer. Under 1961 Act, when the Government waste land is provided to S.C. or S.T. persons, it cannot be transferred on the name of any other person without pre-sanction of District Collector. Under the Bombay Land Revenue Code, 1879, the State Government has issued a Notification in 1961 specifically for Schedule Areas. According to this Notification, in Schedule Areas, the schedule tribe people cannot sell, hypothecate or gift their agriculture land to any non-tribal person. Under some special circumstances only such sell, hypothecation or gift is allowed, for which pre-sanction from The District Collector is essential. The Notification is as under:

In all the areas of Gujarat where the Bombay Tenancy and Agricultural Lands Act was applicable, transfer of agricultural land to not agriculturist has been prohibited under the relevant rules framed by the State Government in 1961, Government Lands allotted to the Scheduled Castes and Scheduled Tribes cannot be transferred without the previous permission of the competent authority. A separate notification for Scheduled Areas was also issued by the State Government in 1961, under the Bombay Land Revenue Code, 1879 and has now become applicable to the Scheduled Tribes in all these villages in the Scheduled Areas of the state in which survey settlement under the said code has not been introduced. According to this notification, transfer of land from tribals to non-tribals has been prohibited, without the permission of the Collector.

Notification No. LNO-3961/41509-G Agriculture and Lands Department, Sachivalaya, Ahmedabad dated the 4<sup>th</sup> April, 1961.

## **CHALLENGES OF THE DAY:**

The market-based development of agriculture has provided encouragement for cash crops like Sugar cane, cottonseed, Tobacco etc. resulting into increase in demand and price of land. The new economic policy of 1991 has provided impetus to industrial growth of the State; and there was an increasing demand for land and natural resources of tribal areas. The Government of India is trying to bring a discipline in the process of expansion of industries, so that backward areas of the nation are encouraged.

The State Government has also tried to establish new industrial units in tribal areas to motivate the entrepreneurs to pursue the new economic policy. For establishing such industrial units, the State Government provides special motivation for tribal areas since 31-3-1983, besides, availing financial assistance at concessional rates available from Govt. of India. Thus increasing trends of industrialization and commercialization in tribal areas, the tribals are gradually losing their rights on land. Both land and forest are very important resources for earning of livelihood for tribals. After independence, the land from the hands of tribals has passed on in large scale in the hands of non-tribals. This is evident even from the census reports. Some of the factors responsible for such transfers of land are:

- (1) The Money lenders and rich tribals take away the ownership rights of the land of poor tribals in order to recover their lending.
- (2) The tribals have taken loans from agriculture credit societies or from Banks under various land/agriculture development schemes. When they fail to repay the loans, their land is being publicly auctioned for repayment.
- (3) Besides transferring the land in the names of private people, the Government has considered to use the additional lands of tribal, for development of certain schemes.

Sections 73-AA, 73-AB, 73-AC and 73-AD have been added to the Bombay Land Revenue Code, since 1-2-1981 in order to prevent the transfer



of land from tribals to non-tribals or money lenders; and such lands cannot be sold or transferred without the permission of District Collector. Such controls have restricted the transfers of land in many cases. But the fact remains that dispute such restrictive provisions in the Act; the land is being transferred through finding some loopholes in such provisions. E.g. In order to obtain permission under Section 43 and 63 of the Act, for land under new agreement, the land under new agreement is transferred to that under old agreement by changing extra premium of 60 part amount quickly and then, as an old-agreement land, permission is granted for transfer.

At some places, the land of tribals is transferred in the name of non-tribal on private registration document, and the price of land is paid at very low rate as against market price. So, in Govt. record the land is in the name of tribal only; but the actual possession and consumption is that of non-tribal. In such cases, it is hardly possible to get the possession back to him. There are several factors involved including threatening, police case, assault etc. The poor illiterate tribal has no money to fight his case or to get protected from police case. Therefore, he cannot have his land for decades. There should be a provision for jail sentence/fine for those who capture the land, and the tribals should get adequate police protection. The picture is reverse today. If a non-tribal on the strength of money, files a case against tribal, the tribal is taken to custody.

There have been several incidents of transfer of land from a tribal to non-tribals in the villages around Ambaji, such as Chikhla, Jetwas, Kumbharia, Panchha etc. Danta Taluka. Initially, the tribal mortgaged their land for a very small amount of money and were transferring their right to till to the non-tribal lenders. Some outsider Rajasthanis or Gujaratis were focusing their eyes on such land for commercial activity or marble industry. They would continue to use this land for year after year. When the tribal goes to them to repay the money and get the land back, they would argue that the land is sold to them; or they would refuse to take money back; but would

threaten the tribal owner and sometimes even file a chapter case against him and get him arrested also. If he is arrested in a chapter case, he can be released on production of security. If thereafter, he tries to, visit his land, the security is arrested. Therefore, no one volunteers to stand as security in such cases. Even criminal case is fabricated by showing some damage to engine, crop etc. Sometimes, a tribal is accused to have committed a theft. Thus, such Wallace tricks are used to keep permanent possession of land on the strength of money-power and muscle power. Many a times, when the case is filed; the notice for hearing are not served in time or when such notices are served, they are undated and the date of hearing is over-written. Thus, the poor person fails to report for hearing and the case is disposed of against him in his absence only. All these issues need fresh re-consideration.

Several such incidents are also found in this area, where the price of land in official document is shown very high whereas the poor tribal has received hardly 1/5<sup>th</sup> of the amount. Such disparity of price also needs special consideration. Poor, illiterate tribals are cheated by non-tribals, giving him false promises and getting his thumb impression on documents.

In Amirgadh taluka, in some of the villages, Muslims are well placed. They pretend to be well-wishers of poor tribals, develop good relations with them and try to penetrate in land. Under some pretext, they take hold of the land-ledger from the tribals. They of course extend some financial help to them; but their focus is of the land; and they find appropriate time to show their demon-face. Several incidents are found where the land is snatched away without official transfer of name. Some incidents are recorded where kind adding to their own has been encroached upon. Some people with the strength of money and intellect, succeed in manipulating official record of entry, or keep the possession of land suggesting that it was already transferred in their name by the late old man of tribal family. Some tribals give away the land by threatening. They do not have money to go for legal

proceedings. Thus these poor tribals lose their land in one way or the other. The money lenders charge exorbitant rate of interest from these poor people.

Some of the Mamlatdars of Valsad Districts feel that the easy transfer of land would result in to as pathetic conditions of tribals as those of Dadra-Nagar Haveli. They elaborated their statement explaining that, transfer of land would of course bring plenty of money, but if the money is not properly used or invested the next generation will have neither land nor money. They also opined that Section 73-AA also result in indirect exploitation of tribals. Because, the tribal is not able to sell his land and therefore cannot get the higher price of the land. When he sells it unofficially, he cannot get enough value; because in a private deal, land is not officially transferred in other name. Thus, the tribal is deprived of his real value of land. Any non-tribal will be able to get proper price by selling, but not a tribal, because of restrictions vide 73-AA.

Village Balitha is on Vapi – Valsad highway near Vapi. More than 50 percent tribals in this village have land; but the land situated on both the sides of road has been sold out to non-tribals for commercial use. As per presence of Panchayat, there are 22 instances in which land has been given on hire punches basis for long term. This is done on a private document on stamp paper worth Rs. 50/-. In all such cases, the land is on the name of the tribal in Govt. record; but in reality the land is used by non-tribal with pacca construction Like Hotel, Garage, Shop etc,. Such document is made for hire purchase for 99 years, but for want of any legal document, there is no note of this in Govt. record. People prefer to go for private document; because, Government procedure is very complicated. This is how land is transferred through private documents.

## **SUGGESTIONS:**

- (1) In the tribal areas as declared by Govt. of India and where the tribal population is in larger preparation, the tribals cannot sell, hypothecate, gift or transfer the land to any non-tribal without the permission of District Collector / District Development Officer under Bombay Land Revenue Code Section 73-AA and Rule 57-L thereunder. This applies to both agriculture as well as non-agriculture land. It is perfectly alright if the section of the Act applies to the non-agriculture land in Schedule Area; because usually houses etc. are constructed on N.A. land; and when such houses are sold out, the land around the houses also go alongwith the houses. It is also to be realized that at many places in this area, flats are also constructed; and there are some tribals owning the flats. When the flat is situated on upper floor, it has no connection with land. In flat, there is one ownership over land. Usually a tribal, with his traditional way of living, will not prefer to stay in flats; but it could be a pressure of circumstances. Now when he wants to dispose of the flat, the provision of permission becomes a hurdle. Tribals are also common citizens of India and their development under Article 14,16 & 19 cannot be prevented. Tribals, in present context face difficulties when they want to sell their flat or any other property not connected with land, want to carry on social celebrations or even want to migrate. The process of obtaining permission takes 3 to 4 months. During this period, the titles are not clear for want of permission; and the buyers have second thought. Consequently, he gets lower price and they are not able to buy the property of their choice. All those are stumbling blocks in their progress. If they could freely sell their property like non-tribals, they would solve their problems easily. It is therefore suggested that there should be some flexibility in the law for sale of immovable property not connected with land. For such sale, the provision to seek permission should be done away with.

- (2) The Hindu Inheritance of property Act 1956, section 2 (2) does not apply to tribals; nor there can be grouping of names of males and females together in inheritance. As such no general or special Act is applied for tribals. The system is based on tradition, wherein the name of elder son was mentioned. There has been a representation of upper level; and now the Government has directed to entree the names of all the sons. Nevertheless, the daughters are excluded from inheritance of property of father. Sometimes it so happens that after marriage the daughter returns to father's village with her husband according to Khandhadia system. They try to keep a piece of land from parent's property and thus quarrels and conflicts take place between brothers and sisters. There have been several such cases of law and order due to problems of land. Some civil suits are also filed; and often stay orders are taken. Thus for want of a straight policy regarding inheritance, several difficulties arise; and their time and lives are wasted and they undergo great financial losses also.
- (3) Nevertheless the restrictions on sale of agricultural land should be continued; because land is the only means of livelihood for them. If agriculture land were sold out; there would be several problems of maintenance. Likewise, if somebody snatches away the agri. Land; there should be provision for jail and fine-police should also provide protection to tribals against various threats.
- (4) If we go in reasons of land being taken away, one major reason is poverty for which they have to incur debt. They are victims of poverty and ignorance. That is why some actions should be taken to pay of their debts. They should be covered under economic development programs to bring them above poverty line on priority basis. So that they come out of deprivation and lead a life without depending on others. These families must be covered under long term production oriented schemes to help them to lead independent life.

- (5) Some more preventive legislation should be made so that the land, house, trees, ornaments etc. are saved from changing hands. Government or Banks should lend money including for social purpose, so that they are saved from moneylenders. This will help the tribal to come out of permanent cumulative debts.
- (6) Many a times the people who snatch away land are comparatively more clever, shrewd and having great influence on government machinery. Therefore they try to see that there is more and more internal quarrels, whose land is to be taken away, so that they take maximum advantage from such situation.
- (7) The mercantile community, using their relationship of friends and relatives penetrate into deep tribal areas. In the beginning they provide help and assistance to very poor tribal families and thereby winning their confidence exploit them. In such exploitation, they also take support from tribal leadership. They always pretend that they are supporters of such leadership,
- (8) The exploiters are very strong, very prosperous and often very shrewd also. They wait for proper opportunity. They can even wait upto the death of head of family. These people move slowly and strategically step by step and ultimately trap the person in their game.
- (9) Many a times the deal of sale of land is kept secret. The exploiters take care to see that very few people come to know about such deal; so that there is no hue and cry locally. For the purpose, they even do not mind spending some amount for obliging the concerned parties; but ultimately the exploiters only pursue their own interests.

- (10) The tribal farmer's donot have any knowledge of Acts related to land. They are exploited because of their ignorance and illiteracy. Some training workshops should be planned to educate them about such legislations.
- (11) Most intensive efforts should be done to improve the economic conditions of tribal farmers; or efforts should be done to get more crops from their land; so that they need not sale it or mortgage it.

**ACTION PLAN**  
**Regarding**  
**TRANSFER OF LAND IN TRIBAL AREAS**

There are following ways of transfer of land:

- (1) Some concessions provided in the Act to sell the land with permission.
- (2) Transferring the land from new contract to old one and paying 60 part amount quickly extra premium.
- (3) By mortgage through private document paying less price.
- (4) By taking land on partnership farming.
- (5) By making unauthorized entry or encroachment taking appropriate opportunity.
- (6) By Threatening, assault, filing police case and taking wrongful possession of land.

**ISSUES AND PROPOSED ACTION:**

**Issue:**

- (1) Land is taken away paying less price, making only private document by non-tribals, in which;
- (2) They donot get their land back even after stipulated time period, or on repayment of debt.

- (3) Threatening are given, assaults done, police cases made against tribal holders.

**Action proposed :**

- (1) Those who are responsible for taking away the land should be punished with Jail/fine
- (2) There should be adequate police protection for tribals.

**Issue :**

The non-tribals might be enjoying the possession of land belonging to tribals forcefully.

**Action :**

- (1) The tribals should be returned their possession of land.
- (3) They should be provided with legal and police assistance.

**Issue :**

When the case is going on to get the land back, the tribal family faces great loss of time and money.

**Action:**

- (1) The tribal farmers should be provided with legal guidance and assistance from government pleader.
- (2) The tribals should be provided with financial assistance for fighting their cases.

**Issue :**

Often chapter cases and police cases are filed against the tribal farmers by Non-tribal persons who have snatched away the land.

**Action :**

- (1) The genuine land holders should be provided with police protection.
- (2) No false chapter cases against tribals should be accepted.

**Issue :**

In the residential areas, where flats are constipated; sometimes the tribals stay in flats on upper floors.



**Action :**

- (1) Whenever possible, the residential flats or any property not connected with land should be permitted to be sold out.
- (2) The provision for seeking permission for such sale should be done away with.

**Issue :**

Because of Debt, the land, house, trees, ornaments etc. belonging to tribals are sold out to pay the debt.

**Action :**

- (1) Some preventive action should be taken.
- (2) Government itself should lend money for social purposes also.
- (3) Even Bank should lend money against ornaments. So that ornaments may not go to moneylenders.

**Issue :**

The tribal holder doesn't get proper price for his land.

**Action :**

- (1) It should be ensured that the tribal gets the same amount as shown in government record.
- (2) The total amount of land should be paid to the tribal landholder in the presence of Taluka Mamlatdar. The competent authority should ensure such practice.

**Issues:**

- (1) In case of legal proceedings if the post issued by Mamlatdar office for production of evidences are not received in time.
- (2) When the tribal farmer fails to be present in the court, his case is disposed of in his absence.

**Action:**

- (1) Arrangement should be made to deliver the mail containing court proceeding by Hand Delivery.
- (2) The summons should be served in personal name; his attendance in the case should be ensured and final decision should be taken after it is properly heard.

**Issue:**

- (1) Usually the tribal farmers do not have necessary information about laws related to land.
- (2) The tribals being illiterate or less literate, they are exploited.

**Action:**

- (1) Training classes and workshops should be planned to provide information regarding laws related to land.